

## Office of the Secretary of Defense

## § 151.5

accord U.S. military personnel confined in foreign institutions the treatment, rights, privileges, and protection similar to those accorded such personnel confined in U.S. military facilities. The details of such arrangements should be submitted to the Judge Advocates General of the Military Services.

(5) The military commanders shall make appropriate arrangements with foreign authorities whereby custody of individuals who are members of the Armed Forces of the United States shall, when they are released from confinement by foreign authorities, be turned over to U.S. military authorities. In appropriate cases, diplomatic or consular officers should be requested to keep the military authorities advised as to the anticipated date of the release of such persons by the foreign authorities.

(6) In cooperation with the appropriate diplomatic or consular mission, military commanders shall, insofar as possible, ensure that dependents of U.S. military personnel, nationals of the United States serving with, employed by or accompanying the armed forces, and dependents of such nationals when in the custody of foreign authorities, or when confined (pretrial and post-trial) in foreign penal institutions receive the same treatment, rights, and support as would be extended to U.S. military personnel in comparable situations pursuant to the provisions of § 151.4(i).

(j) *Discharge.* U.S. military personnel confined in foreign prisons shall not be discharged from military service until the completion of the term of imprisonment and the return of the accused to the United States, except that in unusual cases such discharges may be accomplished upon prior authorization of the Secretary of the Military Department concerned.

(k) *Information policy.* It is the basic policy of the Department of Defense that the general public and the Congress must be provided promptly with the maximum information concerning status of forces matters that are consistent with the national interest. Information shall be coordinated and furnished to the public and the Congress in accordance with established proce-

dures, including DoD Directive 5122.5,<sup>1</sup> "Assistant Secretary of Defense (Public Affairs)," July 10, 1961, and parts 286 and 286a of this title.

### § 151.5 Reports on the exercise of foreign criminal jurisdiction.

The following reporting system, which has been implemented by the Military Departments, shall be continued after revision in accordance with the provisions herein. The Department of the Army is designated as executive agent within the Department of Defense for maintaining and collating information received on the basis of the reports submitted.

(a) *Annual reports.* Annual reports, based on information furnished by the Military Departments covering the period December 1 through November 30 shall be prepared by the Department of the Army and submitted within such time as may be required but not later than 120 days after the close of the reporting period. The reports shall be submitted in one reproducible copy to the Office of the General Counsel, DoD, in accordance with departmental implementation of this part. The reporting content of this requirement shall be as follows:

(1) A statistical summary (DD Form 838) by country and type of offense of all cases involving U.S. personnel.

(2) A report signed by the appropriate Military Service commander in each country for which DD Form 838 is prepared, concerning the commander's personal evaluation of the impact, if any, the local jurisdictional arrangements have had upon accomplishment of the mission and upon the discipline and morale of the forces, together with specific facts or other information, where appropriate, substantiating the commanders' opinion.

(3) A report of the results of visits made and particular actions taken by appropriate military commanders under § 151.4(i).

(4) A report of the implementation of 10 U.S.C. 1037 showing by country and Military Service:

<sup>1</sup>Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Attention: Code 301.

## § 151.6

## 32 CFR Ch. I (7–1–08 Edition)

(i) The total number of cases in which funds were expended and

(ii) Total expenditures in each of the following categories:

(A) Payment of counsel fees,

(B) Provision of bail,

(C) Court costs and other expenses.

(b) *Quarterly reports.* (1) Quarterly reports for the periods ending November 30, February 28, May 31, and August 31, consisting of lists of U.S. personnel imprisoned and released, shall be submitted, in accordance with departmental implementation of this part to the Department of the Army and by the Department of the Army, as executive agent, to the Director, Washington Headquarters Services, in four copies, on or before the 15th day following the report quarter as follows:

(i) An alphabetical list of U.S. personnel who were imprisoned during the reporting period under sentence of confinement imposed by a foreign country, indicating the individual's home address, grade, and serial number (where applicable), offense of which found guilty, date and place of confinement, length of sentence to confinement imposed, and estimated date of release from confinement.

(ii) A similar list of the names of prisoners released during the reporting period.

(2) An information copy of these lists shall be furnished by the appropriate Military Service commander to the diplomatic or consular mission in the country concerned.

(c) *Other reports.* (1) Each Military Department shall maintain, on a current basis, and submit monthly to the Director, Washington Headquarters Service, in four copies, a list of the most important cases pending, with a brief summary of the salient facts in each case. Selection of the cases to be included shall be left to the judgment of the appropriate officials of each Military Department. Instances of deficiency in the treatment or conditions of confinement in foreign penal institutions or arbitrary denial of permission to visit such personnel shall be considered important cases. Lists covering the previous month shall be submitted on the 6th day of the month following.

(2) Important new cases or important developments in pending cases shall be

reported informally and immediately to the Office of the General Counsel, DoD.

### **§ 151.6 Resolution of ratification, with reservations, as agreed to by the Senate on July 15, 1953.**

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Executive T, Eighty-second Congress, second session, an agreement between the parties to the North Atlantic Treaty Regarding the Status of their Forces, signed at London on June 19, 1951. It is the understanding of the Senate, which understanding inheres in its advise and consent to the ratification of the Agreement, that nothing in the Agreement diminishes, abridges, or alters the right of the United States of America to safeguard its own security by excluding or removing persons whose presence in the United States is deemed prejudicial to its safety or security, and that no person whose presence in the United States is deemed prejudicial to its safety or security shall be permitted to enter or remain in the United States. In giving its advise and consent to ratification, it is the sense of the Senate that:

(a) The criminal jurisdiction provisions of Article VII do not constitute a precedent for future agreements;

(b) Where a person subject to the military jurisdiction of the United States is to be tried by the authorities of a receiving state, under the treaty the Commanding Officer of the armed forces of the United States in such state shall examine the laws of such state with particular reference to the procedural safeguards contained in the Constitution of the United States;

(c) If, in the opinion of such Commanding Officer, under all the circumstances of the case, there is danger that the accused will not be protected because of the absence or denial of constitutional rights the accused would enjoy in the United States, the Commanding Officer shall request the authorities of the receiving State to waive jurisdiction in accordance with the provisions of paragraph 3(c) of Article VII (which requires the receiving